

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA

IN RE: . Case No. 08-35653(KRH)  
.  
CIRCUIT CITY STORES, . Chapter 11  
INC., et al., . Jointly Administered  
.  
701 East Broad Street  
Richmond, VA 23219  
.  
Debtors. . December 21, 2010  
. . . . . 2:08 p.m.

TRANSCRIPT OF HEARING  
BEFORE HONORABLE KEVIN R. HUENNEKENS  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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1 COURT CLERK: All rise. Court is now in session.  
2 Please be seated and come to order.

3 COURTROOM DEPUTY: In the matter of Circuit City  
4 Stores, Incorporated, hearing on items as set out on proposed  
5 agenda.

6 MS. BERAN: Good afternoon, Your Honor.

7 THE COURT: Good afternoon.

8 MS. BERAN: For the record Paula Beran on behalf of  
9 the Circuit City Stores, Inc. Liquidating Trust. And with me  
10 at counsel table this afternoon is Ms. Katie Bradshaw who has  
11 previously been introduced to this Court. Your Honor, there  
12 was an amended agenda filed earlier this morning, and I  
13 apologize, I did not bring copies with me. And I apologize to  
14 the extent the Court has not had a chance to review it.

15 I will note just before I begin and then I'll note  
16 when I go through the agenda, there was just -- one item was  
17 inadvertently left off and that was added on by agreement with  
18 counsel and it requests basically a continuance until the  
19 January 13th omni date. And then there were a couple of  
20 additional settlements that occurred yesterday, and so those  
21 are so noted on the amended Exhibit A.

22 THE COURT: All right.

23 MS. BERAN: The first item on the docket is the  
24 motion for allowance of the late filed claim -- expense claim  
25 of Metra Electronics Corporation. We'd respectfully request

1 that that be adjourned until the February 24th omnibus hearing  
2 date. In connection with that, Your Honor, there was a  
3 complaint filed against Metra Electronics Corporation and  
4 they're currently in discussions for a global resolution of all  
5 issues outstanding with Metra. And by agreement with Mr. Gray  
6 we respectfully request that that be continued to the February  
7 24th omnibus hearing date.

8 THE COURT: All right, it's continued.

9 MS. BERAN: Thank you, Your Honor. In connection  
10 with the next item, Site A, LLC second amended motion to allow  
11 late filing proof of claim, or in the alternative motion to  
12 file late proof of claim as an amendment to an informal proof  
13 of claim, that matter is continued to be in discussions and  
14 negotiations concerning a resolution of the same with Mr.  
15 Campson (phonetic). And by agreement with Mr. Campson we'd  
16 respectfully request that that matter be continued or adjourned  
17 until the January 13th omnibus hearing date.

18 THE COURT: It'll be continued.

19 MS. BERAN: Thank you, Your Honor. In connection  
20 with the third item, it's the application for administrative  
21 expense or motion for allowance of payment of administrative  
22 expense claim filed by Mr. Westermann on behalf of Marblegate  
23 Asset Management, similarly, Your Honor, there was a complaint  
24 filed against Kodak -- Eastman Kodak as well as Marblegate,  
25 Special Opportunities Master Fund, LLP. There are currently

1 ongoing negotiations concerning a global resolution of all  
2 issues outstanding between the parties. And by agreement with  
3 Mr. Westermann and his co-counsel we'd respectfully request  
4 that that be continued until January 13th.

5 THE COURT: That'll be continued.

6 MS. BERAN: Thank you, Your Honor. Item Number 4 is  
7 a new item that was added to the agenda. It is the complaint  
8 with the -- referencing the Sharp Electronics Corporation  
9 matter. In connection with that, Your Honor, previously Your  
10 Honor may recall there was a proposed settlement -- it hadn't  
11 been agreed to by Sharp -- between the debtor and Sharp and  
12 various other Sharp entities. I think it was the parent of  
13 Sharp Electronics Corporation. In connection with that the  
14 plan went effective after those negotiations and circulation of  
15 documents.

16 And given that the plan went effective the trustee at  
17 that point in time wanted to make sure and looked at things.  
18 There have been subsequent documents -- settlement documents  
19 exchanged, and I can't represent whether they're acceptable to  
20 Sharp or not, but by agreement with Mr. Perkins we respectfully  
21 request that this status on this complaint, as well as any  
22 potential settlement of the same be continued until January  
23 13th.

24 THE COURT: January 13th.

25 MS. BERAN: Yes, Your Honor.

1 THE COURT: All right, it'll be continued.

2 MS. BERAN: Thank you, Your Honor. Your Honor, the  
3 debtors' objection to Claim 1283 of Quebecor World USA, that  
4 matter now has been resolved pursuant to procedures approved by  
5 this Court and it can be removed from Your Honor's docket.

6 THE COURT: It'll be removed.

7 MS. BERAN: Thank you, Your Honor. Your Honor, six  
8 through 25 are the debtors' omnibus objections, and now the  
9 trust's omnibus objections to claims in connection with the  
10 same, Your Honor. Item Number 6, debtors' eighth omnibus  
11 objection to certain late claims, there still are pending three  
12 claims for which we respectfully request that we continue this  
13 matter until the January 13th omnibus hearing.

14 THE COURT: It'll be continued.

15 MS. BERAN: Similarly, Your Honor, on Item Number 7  
16 is the debtors' ninth omnibus objection. There are three  
17 claims for which the objection is still pending and we'd  
18 respectfully request that those be continued until January  
19 13th.

20 THE COURT: It'll be continued.

21 THE COURT: Thank you, Your Honor. Item Number 8 is  
22 the debtors' nineteenth omnibus objection. In connection with  
23 the nineteenth omnibus objection, Your Honor, there is one  
24 claim that remains outstanding and we respectfully request the  
25 matter be continued for that one claim until January 13th at

1 two.

2 THE COURT: It'll be continued to the 13th.

3 MS. BERAN: Thank you, Your Honor. Item Number 9 is  
4 debtors' twenty-second omnibus objection. There is still one  
5 claim remaining as indicated on Exhibit A and we respectfully  
6 request as it relates to that one claim that that be continued  
7 until January 13th.

8 THE COURT: It'll be continued.

9 MS. BERAN: Item Number 10 is the twenty-third  
10 omnibus objection. In connection with that matter, Your Honor,  
11 at the last hearing there was one claim for which an objection  
12 was still pending, and that is D-Link Systems. That matter has  
13 been resolved and settled pursuant to procedures approved by  
14 this Court, so that matter can come off the Court's docket.

15 THE COURT: Okay.

16 MS. BERAN: Number 11 is debtors' thirtieth omnibus  
17 objection. There are still a handful of claims remaining as it  
18 relates to that one as identified on Exhibit A, and we'd  
19 respectfully request that it be continued to January 13th for  
20 those matters.

21 THE COURT: It'll be continued to the 13th.

22 MS. BERAN: Your Honor, on Number -- Item Number 12  
23 is debtors' thirty-first omnibus objection to certain claims.  
24 For those claims in which an objection is still pending other  
25 than the PNY Technologies, which I'd like to address with Your

1 Honor separately, we would respectfully request that those  
2 subject to that objection be continued until January 13th at  
3 eleven -- January 13th, 2011, at two o'clock.

4 THE COURT: Okay.

5 MS. BERAN: For PNY, Your Honor, as Your Honor may  
6 recall pursuant to a court scheduling order in Adversary  
7 Proceeding Number 10-03056, which was an adversary filed by the  
8 debtor back in early 2010, this matter is currently scheduled  
9 for trial on January 24th and 25th, 2011. I'm happy to report  
10 to Your Honor -- and it's not just lip sync up here -- the  
11 parties are currently in serious settlement negotiations, and  
12 the parties based on the current status of those negotiations  
13 are optimistic and/or hopeful that we can settle that matter.

14 But, being mindful that Your Honor as well as just  
15 the practice in the Eastern District just to keep things on a  
16 path towards resolution without a continuance merely for  
17 settlement discussions if those settlement discussions aren't  
18 going to be fruitful, the parties have discussed and would be  
19 in agreement if Your Honor is so inclined that first and  
20 foremost, we would vacate the January trial date, continue  
21 negotiations in earnest, and have dates certain upon which if  
22 we -- if the parties are not able to reach a settlement on or  
23 before January 31st then we would submit to mediation pursuant  
24 to similar procedures approved by Your Honor in connection with  
25 the 565 adversaries that were filed by the trust.

1           Similarly, Your Honor, to keep it on a path towards  
2 resolution one way or the other, whether consensual or whether  
3 it be through trial before Your Honor, then that requirement  
4 that said mediation was to occur no later than March 1st, 2011,  
5 and if it hadn't settled by March 1st, 2011 that a new trial  
6 date approximately 60 to 90 days after the March 1st date would  
7 be requested from Your Honor and then we would go forward with  
8 trial of this matter at that date.

9           THE COURT: Well, why wouldn't I just keep the  
10 present trial date? Isn't that the better way to get this  
11 thing resolved between now and then?

12           MS. BERAN: In connection with the current trial date  
13 that is in January.

14           THE COURT: I know.

15           MS. BERAN: And the parties are negotiating and are  
16 discussing in earnest the concept, though, I --

17           THE COURT: We would just give them a little more  
18 earnest.

19           MS. BERAN: I think both counsel thinks that a  
20 mediator would be beneficial to maybe further explain some of  
21 the nuances associated with the issues in it. So, counsel is  
22 trying to come to a resolution, but if we can't come to a  
23 resolution the concept would be to get a mediator. And I don't  
24 think that we feel as though we could get a mediator up to  
25 speed and have it resolved before the January 24th date, in



1 fair candor to the Court.

2 THE COURT: Who's counsel for PNY?

3 MS. BERAN: Counsel for PNY I believe it's -- and I  
4 apologize, Your Honor, I have so many of these coming for cross  
5 -- I believe local counsel is Neil McCullagh, and his  
6 co-counsel is McCarter English.

7 THE COURT: And your proposal at this point is to  
8 release those two trial dates, not set any other trial date,  
9 but to order mediation. And the mediation has to occur when?

10 MS. BERAN: On or before January -- no, the parties  
11 would have until January 31 or maybe even just pick that date,  
12 but maybe before the trial date, before the 24th either are  
13 settled or it goes to a mediator and the mediation would have  
14 to be concluded before March 1st.

15 THE COURT: I'm having real trouble with all of this,  
16 why this is going to take that long to -- I mean if it's going  
17 to settle it's going to settle. I don't understand. All we're  
18 doing is delaying the settlement discussions in the case.

19 MS. BERAN: Your Honor, I can understand and  
20 appreciate your concern, and the trust is trying to move this  
21 along. The trust -- it's the thing -- one thing we would  
22 respectfully request then is allow some time for the mediator  
23 to come in.

24 THE COURT: Well, what I'm going to do is I'm going  
25 to deny your oral motion this morning. You can submit a

1 written motion asking for leave to mediate with specific dates  
2 when the mediation is going to occur. And then if I grant that  
3 I'm going to set a trial date if it doesn't -- not resolved in  
4 mediation. I'm very reluctant to release my trial date in this  
5 case, but I'm going to give you the opportunity to at least  
6 convince me. And you can submit that on papers jointly and --  
7 because I do want to know that both sides are in agreement with  
8 doing it.

9 MS. BERAN: Yes, Your Honor. I mean, I can represent  
10 that there -- I do have e-mail confirmation from -- I believe  
11 it's McCarter English that -- asking -- agreeing to the  
12 proposal that I just set out there, but nonetheless --

13 THE COURT: Oh, I'm confident you do. I want a  
14 formal motion though --

15 MS. BERAN: Certainly, Your Honor.

16 THE COURT: -- requesting it, because if I grant it  
17 I'm going to set a specific mediation date and say you're going  
18 to do it that day and to get this resolved.

19 MS. BERAN: Okay. Thank you, Your Honor. Then, Your  
20 Honor, as it relates to the thirty-first omnibus objection on  
21 all the remaining claims as I indicate on Exhibit A we  
22 respectfully request that they be continued until the January  
23 13th, 2011 date.

24 THE COURT: All of those will be continued.

25 MS. BERAN: Thank you, Your Honor. In connection

1 with debtors' thirty-third omnibus objection to claims there is  
2 still one objection pending. We respectfully request that that  
3 be adjourned to the January 13th date, as well.

4 THE COURT: That'll be adjourned to the 13th.

5 MS. BERAN: Thank you, Your Honor. Debtors'  
6 thirty-sixth omnibus objection to certain claims. As it  
7 relates to that, Your Honor, there is still a handful of them  
8 that are outstanding as of today, and we'd respectfully request  
9 as identified on Exhibit A that those matters be continued to  
10 January 13th at two.

11 THE COURT: It'll be continued.

12 MS. BERAN: Thank you, Your Honor. Similarly -- I  
13 beg the Court's indulgence one moment, please, because there's  
14 several I wanted to report on.

15 (Pause)

16 MS. BERAN: Your Honor, in connection with Item  
17 Number 15, debtors' thirty-seventh omnibus objection, there  
18 still are certain claims that have been -- that are still  
19 pending, and we'd respectfully request that it be -- those be  
20 continued until January 13th, 2011 at two. I would report to  
21 the Court that since the last omnibus hearing date in  
22 connection with that omnibus date -- omnibus objection, 18 of  
23 those claims have since been resolved. And so as represented  
24 by Mr. Caine and myself we are -- the trust is diligently  
25 trying to address these claims and clean up Your Honor's docket

1 in these cases for resolution of the same. And to the extent  
2 Your Honor wanted any additional report I do have the specific  
3 18 claims and the resolutions of those here for presentation  
4 today if Your Honor were so inclined.

5 THE COURT: No, that's not necessary, but I applaud  
6 your good efforts.

7 MS. BERAN: Thank you, Your Honor. In connection  
8 with Item Number 16, the debtors' forty-ninth omnibus objection  
9 to certain claims, there is one claim that was previously  
10 pending at the last omnibus objection. This matter has been  
11 resolved as it relates to that claim and it has been approved  
12 pursuant to procedures approved by this Court, and therefore  
13 this matter can be withdrawn from Your Honor's docket.

14 THE COURT: Very good.

15 MS. BERAN: In connection with Item Number 17,  
16 debtors' fiftieth omnibus objection, as it relates to the one  
17 remaining matter subject to this objection as identified on  
18 Exhibit A we'd respectfully request that we adjourn that until  
19 January 13th at two o'clock.

20 THE COURT: It'll be adjourned.

21 MS. BERAN: Item Number 18, debtors' sixtieth omnibus  
22 objection. There are still a couple claims for which this  
23 objection is still pending and we'd respectfully request that  
24 it -- the -- those claims be adjourned to the January 13th at  
25 two o'clock hearing date.

1 THE COURT: It'll be adjourned.

2 MS. BERAN: Thank you, Your Honor. Item Number 19,  
3 debtors' seventieth omnibus objection. There are still a few  
4 claims pending for that omnibus objection as well, and we'd  
5 respectfully request that those be continued until the January  
6 13th omni as identified on Exhibit A.

7 THE COURT: It'll be continued.

8 MS. BERAN: Thank you, Your Honor. On Item Number 20  
9 is debtors' seventy-fourth omnibus objection to certain claims.  
10 There are several claims pending as it relates to that, and  
11 we'd respectfully request that it be continued for those claims  
12 identified on Exhibit A until January 13th at two o'clock.

13 THE COURT: It'll be continued.

14 MS. BERAN: Thank you, Your Honor. Item Number 21 is  
15 debtors' seventy-sixth omnibus objection. There are two claims  
16 which remains still as it relates to that objection, and we'd  
17 respectfully request as it relates to those two claims that the  
18 matter be adjourned until January 13th at two.

19 THE COURT: It'll be continued.

20 MS. BERAN: Thank you, Your Honor. Item Number 22 is  
21 the debtors' seventy-eighth omnibus objection. There is still  
22 one claim that is pending as it relates to that omnibus  
23 objection. We'd respectfully request that that one claim be  
24 continued until January 13th at two.

25 THE COURT: It'll be continued.

1 MS. BERAN: Thank you, Your Honor. Item Number 23,  
2 debtors' seventy-ninth omnibus objection to claims. As it  
3 relates to that, Your Honor, there have been -- as identified  
4 there, there have been certain resolutions, but there are still  
5 a couple claims that are still pending, and we'd respectfully  
6 request that this matter be adjourned to January 13th at two  
7 for those, as well.

8 THE COURT: It will be continued.

9 MS. BERAN: Thank you, Your Honor. On Item Number  
10 24, debtors' eighteenth omnibus objection to claims, in  
11 connection with that there is still one claim for which the  
12 objection is still pending, and we'd respectfully request for  
13 that one claim as identified in Exhibit A that the hearing be  
14 continued until January 13th.

15 THE COURT: It'll be continued.

16 MS. BERAN: Thank you, Your Honor. And then the last  
17 remaining item is Item Number 25, debtors' eighty-first omnibus  
18 objection. In connection with that, Your Honor, similarly  
19 there is one claim for which the objection is still pending.  
20 We'd respectfully request that the matter be adjourned to  
21 January 13th at two o'clock p.m.

22 THE COURT: It'll be adjourned.

23 MS. BERAN: Thank you, Your Honor. Your Honor, that  
24 concludes the items that are officially on the Court's docket  
25 today. I would like to report one unfortunate situation to the

1 Court and then basically suggest two remedies for the  
2 situation.

3 In connection with the procedures that were  
4 previously approved by Your Honor addressing these adversary  
5 proceedings it has come to light by -- not by any of the  
6 defendants, but by actually consultation between myself and one  
7 of the other lawyers from one of the other law firms who have  
8 been handling this that there actually was a typo in the  
9 procedures, and it is a significant typo, and that deals with  
10 the procedures, and specifically dealing with 7004. As Your  
11 Honor is aware, 7004(e) is what addresses the 14 day  
12 requirement to serve a summons, and I think even when I stood  
13 before Your Honor I referenced (e) and we are talking about  
14 extending the 14 days by an additional 30 days.

15 The procedures actually have (m) as in Mary as  
16 opposed to (e) as in Edward. And as Your Honor is aware, (m)  
17 as in Mary extends the 120 day deadline to file the complaint,  
18 not the summons perspective. In connection with the same, I  
19 think under a motion to reconsider it clearly is a clerical  
20 error on the part of the trust's counsel, and we would  
21 respectfully submit that the Court could grant a motion to  
22 amend and simply correct the (m) to (e). We're happy to either  
23 do that by motion notice and have it heard before the Court or  
24 we're happy to submit an amended order which basically would  
25 just change (e) -- (m) to (e) in connection with the previously

1 entered order.

2 THE COURT: Well, I think that there should be a  
3 motion. I think you can just do a motion and an order. I  
4 don't think it needs to be noticed to everybody in the whole  
5 wide world if everybody wants to object to that. I think it is  
6 just a clerical error. But, I think just so that we have it  
7 clear on the record why we're amending the order the motion  
8 should be included.

9 MS. BERAN: Certainly, Your Honor. And we're happy  
10 to do that. We regret that that happened and I don't think it  
11 prejudices anybody to make that change other -- unfortunately  
12 if that change wasn't made the only entity or party that would  
13 -- the only party -- person in interest would be the clerk's  
14 office because in essence what would have to happen is we would  
15 file a request and -- 565 requests for alias summonses to be  
16 issued and that would be unfortunate.

17 THE COURT: Yes, I understand that. So, we can get  
18 that taken care of because that certainly was not the  
19 intention, and obviously I missed that when I entered the  
20 order.

21 MS. BERAN: And I apologize, Your Honor. I mean,  
22 that went through several eyes and it wasn't picked up on. I  
23 think actually there was a drafter who was trying to be  
24 thorough and went in and added it after it had already been  
25 reviewed by several eyes, and we apologize for that error being



1 submitted to the Court.

2 THE COURT: All right. Is there any other business  
3 we need to take up today?

4 MS. BERAN: Your Honor, I believe that's all there  
5 is, and hopefully for the rest of this year.

6 THE COURT: All right. Let me revisit with you for  
7 just a moment your request for the continuance of the trial  
8 date with PNY Technologies. I do want a motion requesting  
9 mediation, but if it's a joint motion by the parties I would be  
10 inclined to look favorably upon it provided that the mediation  
11 would take place, you know, on or before the scheduled trial  
12 date. And then we'd schedule a pretrial conference in the PNY  
13 adversary proceeding for whatever's the next omnibus date that  
14 Circuit City would have the -- where I would reset a trial date  
15 if the parties have not been able to successfully mediate the  
16 case at the mediation conference.

17 MS. BERAN: Your Honor, and I -- let me make sure I'm  
18 clear here. It'd be subject to a joint motion, which if  
19 agreeable by both parties, and the mediation would be on or  
20 before the January 24th date. And to the extent the status  
21 would be --

22 THE COURT: The idea being that you can actually use  
23 the 24th because that date is obviously one that you've got  
24 blocked off. If -- but you could do it before then if you  
25 thought that it was better to do it beforehand.

1 MS. BERAN: Thank you, Your Honor. And then also --  
2 the request for the -- a pretrial conference to be scheduled at  
3 the next omnibus, and that's a February -- I don't --

4 THE COURT: Whatever it is.

5 MS. BERAN: There's one early February. It's --  
6 February 24th I know is one, but there's an earlier February, a  
7 couple of weeks earlier, that we would request that this matter  
8 be -- the status be continued over until.

9 THE COURT: That's right.

10 MS. BERAN: Okay. Certainly, Your Honor. I  
11 appreciate that.

12 THE COURT: And then as far as the mediator is  
13 concerned, you can use one of the mediators that we have that  
14 we've appointed in the other matters. And you don't have to  
15 say who it's going to be in your motion, but just that the  
16 parties will agree and use those procedures to select a  
17 mediator and go forward.

18 MS. BERAN: Certainly, Your Honor.

19 THE COURT: All right. Is there anything else then?

20 MS. BERAN: No, Your Honor, that's all that I'm aware  
21 of.

22 THE COURT: Okay.

23 MS. BERAN: Thank you very much for your time.

24 THE COURT: Have a very pleasant holiday.

25 MS. BERAN: Thank you. You, too.

COURT CLERK: All rise. Court is now adjourned.

\* \* \* \* \*

C E R T I F I C A T I O N

I, KATHLEEN BETZ, court approved transcriber,  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter, and to the best of my ability.

/s/ Kathleen Betz DATE: January 8, 2011

KATHLEEN BETZ

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